NOTES OF CASES.

Carriers—Police Power—Requiring Free Transportation of Public Officers.—In Sutton *v.* State of New Jersey and Mihm *v.* State of New Jersey, in the Supreme Court of the United States, 37 Sup. Ct. R. 508, there was considered the following statutory provision of the state of New Jersey:

"On and after the passage of this act each street railway company or corporation referred to in the act to which this act is a supplement shall grant free transportation of uniformed public officers while engaged in the performance of their public duties, or police officers of whatever grade or rank acting as detectives, county detectives or detectives attached to or connected with the office of the prosecutor of the pleas in any county in this state while engaged in the performance of their public duties, whose duties require police duty to be performed without uniform" (Pamph. Laws, 1912, p. 235).

It was held that such statute in its application to city detectives not in uniform when in the discharge of their public duties did not contravene the Fourteenth Amendment of the Federal Constitution, but involved a reasonable exercise of police power. The following is from the opinion of the court by Mr. Justice Brandeis:

"The Supreme Court of New Jersey said: 'Policemen are frequently required to be on street cars in the execution of their duties to preserve the peace, to enforce ordinances, and to prevent or detect crime. It would be difficult to say that the mere presence of a police officer might not be of value for securing these objects * * * at any rate, the legislature might reasonably think so, and legalize his presence on the car without payment of fare.'

"Freedom to come and go upon the street cars without the obstacle or discouragement incident to payment of fares may well have been deemed by the legislature essential to efficient and pervasive performance of the police duty. Increased protection may thereby inure to both the company and the general public without imposing upon the former an appreciable burden. If any evidence of the reasonableness of the provision were needed it could be found in the fact that such officers had been voluntarily carried free by the company and its predecessors for at least eighteen years prior to July 4, 1910, when the practice was prohibited by the Public Utilities Act (Pamph. Laws, 1910, p. 58). In the following year such free transportation was expressly permitted (Pamph. Laws, 1911, p. 29), and it was made mandatory by the act here in question. We can not say that the requirement that city detectives not in uniform be carried free on street cars when in the discharge of their duties is an arbitrary or unreasonable exercise of the police power.

"Furthermore, the charter of the railway company was subject to alteration in the discretion of the legislature (N. J. Const., art. 4,

§ 7, par. 11; Pamph. Laws, 1846, p. 17). The obligation to carry free city detectives engaged in the discharge of their duties is a burden far lighter than others imposed upon street-using corporations which have been sustained by this court as a valid exercise of the reserved power (Stanislaus County & San Joaquin & K. River Canal & Irrig. Co., 192 U. S. 201, 48 L. Ed. 406, 24 Sup. Ct. Rep. 241; San Antonio Traction Co. *v.* Altgelt, 200 U. S. 304, 50 L. Ed. 491, 26 Sup. Ct. Rep. 261; Fair Haven & W. R. Co. *v.* New Haven, 203 U. S. 379, 51 L. Ed. 237, 27 Sup. Ct. Rep. 74)."

The present decision practically disapproves the decision of the Third Appellate Division of the New York Supreme Court in Wilson *v.* United Traction Co. (72 App. Div. 233), holding a statute unconstitutional which required the free transportation of policemen and firemen by street railway companies. The Appellate Division expressly decided that the act in question could not be sustained as a legitimate exercise of the police power of a state, as, if it be conceded that the public safety requires policemen and firemen to be carried upon street surface and elevated railroads within a city or village, such safety would not be promoted by their being carried free of charge, citing and relying upon Beardsley *v.* N. Y., &c., R. R. (162 N. Y. 230) and Lake Shore & M. S. R'y *v.* Smith (173 U. S. 684).

It is of general significance and importance that the Supreme Court of the United States, as one of the grounds of the present decision, assigns the right of alteration, in the discretion of the legislature, of the charter of a railway company. In Delaware, L. & W. R. R. *v.* Board of Public Utilities Commissioners, in the Supreme Court of New Jersey (88 Atl. 848), the contrary view was taken. It was held that a section of the General Railroad Law of that state providing that members of the State Water Supply Commission should be permitted to pass and repass free of charge over all the railroads operated in New Jersey was not an exercise of the reserved right of the legislature to amend corporate charters or of legitimate police power, but constituted a taking of the property of the railroad company without due process of law.

Physicians and Surgeons; Dentists—Evidence of Negligence.—In Kopecky *v.* Hasek Bros., the Supreme Court of Iowa (162 N. W. 828), held that it is not necessary, in order to recover against a dentist for malpractice, that there be direct testimony that he departed from the recognized rules and standards of the profession. It is sufficient if an injurious result is shown to have followed the treatment, such result not being one which ordinarily follows when due care and skill have been exercised. The court said that negligence may be found from facts and circumstances from which the want of due care is a reasonable inference, as well as by direct evidence from experts or others.